IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12/08/2004

CORAM
THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.27162 of 2003

R.Raju .. Petitioner

-Vs-

1.The Branch Manager
LIC of India (Main Branch)
Trichy Road, Thanjavur.
2.The Senior Divisional Manager
LIC of India, Divsn. Office
Gandhi Road
Thanjavur 613 000.
3.The Zonal Manager
LIC of India, Anna Salai,
Chennai.
4.Designated Person
Under Insurance Regulatory
Development Authority
LIC Agents, Regulations 2000
LIC of India, Divsn. Office
Gandhi Road, Thanjavur-cum-
Marketing Manager
LIC of India, Divisional Office
Thanjavur. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for issue of a certiorarified mandamus to call for the records relating to the show cause notice dated 5.11.2002 issued by the 2nd respondent and order dated 19.12.2002 issued by the second respondent and quash the same as it was issued without jurisdiction arbitrarily and are not valid under law and also not sustainable in law, and consequently forbear the respondents from invoking the LIC Agents Rules 1972 against the petitioner to take disciplinary proceedings.

!For Petitioner : Mr.Ramamurthy
^For Respondents : M/s.Silambanan

:ORDER
Invoking the writ jurisdiction of this Court, the petitioner has sought for the writ of certiorarified mandamus to quash the order dated 19.12.2002 issued by the second respondent as one without jurisdiction,

arbitrary, not valid and unsustainable in law.
2. The affidavit in support of the writ application and the counter filed by the respondents are perused.
3. It is contended by the learned Counsel for the petitioner that the petitioner was an agent of the first respondent branch and has put in long service; that he aimed to be the member in the Million Dollar Round Table Member; that from 24.10.1990 to 19.12.2002, he secured 1 899 LIC policies, the value of which was Rs.10,90,00,000/-; that on 3 0.12.1998, he secured a police of one A.Sannmugam, who was working as a Head Constable in the police department; that it was for Rs.50,000 /-; that it appeared that one other agent by name P.Raja has also secured another policy from him on 30.9.1999; and that subsequently, the policyholder died on 31.10.1999; that according to the insurance company, on enquiry, it came to the knowledge that he had heart ailment, which fact was suppressed by the petitioner, and thus, it was a fit matter for taking action against the petitioner; that subsequently, a notice was served on him provisionally terminating his agency; that he gave a reply on 14.11.2002; that the second respondent by an order dated 19.12.2002 terminated his agency, but allowing the payment of the renewal commission to him; that against the said order, he preferred an appeal before the third respondent on 3.2.2003, which is yet kept pending without any communication whatsoever, and under such circumstances, it has become necessary for him to file the writ application.
4. Added further, the learned Counsel that the petitioner secured the policy of the said deceased on 30.12.1998; that he acted on the good faith; that to his knowledge, the said insured did not undergo any operation or hospitalisation or medical investigation; that apart from that, he had no direct knowledge about the same; but, he acted on the statement given by the insured; that it is pertinent to note that another agent by name P.Raja had also secured another policy from him; but, no action has been taken against him; that without following the procedural formalities, the second respondent has terminated his agency; that while the matter was brought to the notice of the third respondent, who is the appellate forum, the appeal filed by the petitioner was kept pending all along without any consideration whatsoever, and under the circumstances, the order passed by the second respondent has got to be quashed, and he has to be reinstated as the agent of the insurance company concerned.
5. The learned Counsel appearing for the respondents insurance company would submit that all the contentions put forth by the petitioner's side do not require any consideration; that it is true that the petitioner was the agent of the insurance company; that he secured a policy of Sannmugam on 30.12.1998 for a sum of Rs.50,000/-; that subsequently, the insured died on 31.10.1999; that it was a case where he died out of heart ailment, which should have been brought to the notice of the insurance company by the petitioner; that it was a suppression of a very relevant and material fact; that had it been brought to the notice of the insurance company, the policy could not have been issued to the insured, and thus, not only it was a case of dereliction of duty, but also it went against the norms and rules of the insurance company, where the petitioner was the agent; that under such circumstances, an enquiry was initiated, and sufficient opportunity was given; that the petitioner put forth his explanation; that following the procedural formalities, the agency of the petitioner was terminated, and hence, the writ

petition has got to be dismissed.
6. From the rival submissions, it could be well seen that the petitioner, who was the agent of the respondent insurance company for a period of more than 10 years, secured a policy of one Sannmugam on 30.12 .1998, and the insured died on 31.10.1999 due to heart ailment. It is also not in controversy that another agent of the insurance company by name P.Raja secured a policy of the same person on 30.9.1999. The contention of the petitioner's side that no action has been taken against the said agent has been flatly denied by the learned Counsel for the respondents by stating that action has been initiated against him, and punishment has also been imposed on him. Now at this juncture, it is pertinent to point out that the petitioner, who is aggrieved over the termination of his agency by the second respondent, has preferred an appeal before the third respondent. A perusal of the counter affidavit would go to show that the appeal preferred by the petitioner was dismissed by the appellate authority, the third respondent herein, on 29.8.2003. It is submitted by the learned Counsel for the petitioner that against the said order, an appeal was filed as per the rules before the Chairman of LIC, and the same is yet kept pending. It is pertinent to point out that having filed an appeal before the Chairman, the petitioner has not added him as a party to this proceedings.
7. Apart from the above, from the submissions made, it could be seen that the appeal preferred is yet pending before the Chairman of the LIC. In such circumstances, it is a matter for consideration by the Chairman, before it reaches the Court by way of writ application. Hence, even without availing the remedy what is available under the rules by way of an appeal what is now pending in the hands of the Chairman, the petitioner has brought forth this writ application. Therefore, a direction would be suffice to the fourth respondent to dispose of the appeal pending in his hands, which is alleged to have been preferred by the petitioner, within a reasonable time limit.
8. Now, the learned Counsel for the respondents would submit that no such appeal is pending before the fourth respondent. He would further add that even if no appeal has been preferred, the petitioner can prefer an appeal before the Chairman of LIC, and even if any point of limitation is available, the fourth respondent insurance company is ready to waive the same. Under the circumstances, if no appeal is preferred, the petitioner is given an opportunity to prefer an appeal within a period of one month herefrom, and the fourth respondent insurance company is directed to dispose of the same within a period of two months therefrom. After the disposal of the said appeal by the Chairman, the petitioner is at liberty to move this Court, if the circumstances do warrant so.
9. In the result, this writ petition is disposed of accordingly. No costs.

Index : yes
Internet: yes

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